

IDAHO FALLS REDEVELOPMENT AGENCY
P.O. BOX 50220
IDAHO FALLS, IDAHO 83405-0220

February 18, 2009

Regular Meeting
Minutes

Council Chambers

Call to Order: Chair Barnes called the meeting to order at 3:00 p.m.

Members Present: Chair Bob Barnes, Tom Hally, LaMar John, Linda Martin, Dave Radford and Lee Radford.

Members Absent: None

Also Present: Ryan Armbruster, legal counsel; Renée Magee, executive director; Thane Sparks, treasurer; Jan Blickenstaff, grants administrator; Greg Crockett and Julie Ulrich, Idaho Falls Downtown Development Corporation (IFDDC); Kirk Hansen, Renaissance Partners; Donna Carlson, recording secretary; and approximately five interested citizens.

Minutes: January 21, 2010. Armbruster noted the second “not” should be removed in the second to final sentence on page 2. The sentence should read: “There will be some administrative changes regarding reporting and disclosure, but Armbruster does not believe those will be problematic for the Idaho Falls agency.” **Tom Hally moved to approve the minutes of January 21, 2010, as modified. Motion seconded by LaMar John. Motion passed.**

Approval of Bills: Chair Barnes presented the finance report dated February 18, 2010. The following bills were presented to be paid: Donna Carlson, \$72.00; Harlan Mann, \$244.45; and Elam & Burke, \$1,032.50 from the Snake River allocation fund, and Rudd & Company, \$1,000.00 from the River Commons revenue fund. The following OPA payments were presented to be ratified: AmeriTitle-Walker OPA, \$95,083.02; AmeriTitle-Renaissance OPA, \$247,768.58; Exchange Services-Ball Ventures, \$163,358.25; and Exchange Services-Ball Management, \$38,095.31. **LaMar John moved to approve the bills as read. Motion seconded by Tom Hally. Motion passed.**

Election of Officers: The current officers are Bob Barnes, Chair and LaMar John, Secretary-Treasurer. Greg Hill was vice-chair prior to his resignation from the Agency. **Tom Hally moved to extend the term for existing officers for one year and nominate Lee Radford as Vice-Chair. Motion seconded by LaMar John. Motion passed unanimously.**

Request from Kirk Hansen, Renaissance Partners: Hansen distributed a map of the a portion of the Snake River Urban Renewal District and sheet entitled, “Improvements made within the Snake River Urban Renewal Project by Renaissance Partners, LLP & the Hansen family” listing twenty-five improvements. Hansen stated he appreciated the

recent check and noted the amount is down approximately twenty percent. He understands HB470 has reduced the amount being paid. Hansen believes he has always taken an amiable approach with the Redevelopment Agency and has borne the burden of financing the listed improvements. Due to some changes that have taken place, the footprint of his development has increased but requests to the Agency have not increased. Hansen is not requesting additional funding. He is requesting all areas controlled by the Renaissance Partners or partners of the Renaissance Partners be included in the Owner Participation Agreement (OPA) in order to increase the contribution to the principal invested prior to the district ending in 2018.

Barnes responded the Board has discussed this type of action in great detail due to previous discussions with Walkers. The Agency is not able to incorporate additional properties within existing OPA's. Armbruster explained HB470 adopted in 2008 states any additional levy imposed by way of election will not benefit urban renewal agencies. A school supplemental levy expired and was reauthorized since the adoption of HB470, and the Agency does not receive the levy rate from that election. Armbruster stated Harlan Mann is researching the calculations: a twenty percent reduction appears to be from more than the impact of HB470. Magee explained Olive Garden and Shari's are included in the reimbursement to Renaissance Partners. Hansen indicated he has always accepted the best the Agency could offer but noted costs, especially for lava rock removal, have been much higher than estimated when the OPA was originally negotiated. Thirteen projects have been completed without any funding reimbursement request. He is asking for any flexibility available to pay back the \$4 million he expected to be repaid. The development has not seen any profit and the projects have been completed in a very professional fashion. He understands the restrictions on the Agency. Hansen believes he has been a good partner and asked the Agency to consider any possible options. Barnes asked if Hansen owns any undeveloped property on Wardell Avenue and Hansen answered no. Barnes agreed Hansen has been an excellent business partner and has done a very good job in the area.

Review of Audit: Scott Bond, Rudd & Company, presented the audit report dated September 30, 2009. Bond reviewed the responsibilities of the auditors and the Board. Bond explained the audit information is provided to the City to be included in the City of Idaho Falls financial statements. Because the Agency Board is appointed by the Mayor and Council, the Agency is a component unit under generally accepted accounting principles. Bond noted Exchange Services, the title company for Ball Ventures, was not notified of the execution of a note for an additional \$1.9 million under the OPA.

Bond continued it is expected the Agency operates in a negative asset position because assets are turned over to the City but the Agency holds the debt. The negative asset position increased from the previous year. Some cash and investments are available and property taxes are expected to be received and remitted toward debt. The Agency is operating as the covenants indicate with OPA's completed in a timely manner with the exception of Taylor Crossing. Bond suggested the Agency review the report prior to approval and he is happy to answer questions.

Barnes stated the Agency is not the alter-ego of the City according to the Idaho Supreme Court as well as established documents. Armbruster explained accepted accounting standards do not appear to provide sufficient flexibility to overcome the presumption of being a component unit if the Mayor appoints the members of the Board. A letter was once provided to Boise stating urban renewal agencies are not component units, but there is no avenue to try to resolve the dispute. Not all urban renewal agencies prepare their own financial statements as this Agency has done. If a legislative mandate changes how individuals become Board members, this issue may be revisited. Armbruster stated State statutes are very clear the City is not liable for the debts of an urban renewal agency. Any prospective bond buyer for a publicly-traded bond sees this information in bold print.

Draft of contract with City of Idaho Falls for Memorial Drive construction:

Armbruster reviewed a draft of the agreement between the City of Idaho Falls and the Idaho Falls Redevelopment Agency regarding the Memorial Drive construction project. The contract recognizes the design of the Memorial Drive improvements has been completed to a conceptual level. The final concept will be attached as an exhibit to the contract. The City will not have to return to the Agency for formal approval if there are no substantive changes to the design. The issue of engaging a landscape architect is not currently addressed in the draft. The Public Works Department will be the project engineer. The proposed draft does not provide for the Agency to assist with contractor selection. The Public Works Department is required to provide a detailed project schedule to the Agency with target dates, and a monthly written or verbal presentation is required. Additional drafting may be necessary regarding payment options as there is no formal obligation for progress payments. It is possible to adjust the language to recognize a financing contingency. The Agency hopes to fund the project without borrowing money but that will depend upon when the project begins and the schedule of payments. There have been preliminary discussions about the City financing some improvements such as water, sewer or lighting outside the \$1.6 million being provided by the Agency. The draft indicates relocation of utilities is the sole responsibility of the City. Armbruster indicated the project agreement is proceeding through the approval process and he anticipates the agreement being in a relatively final state by the next meeting. John wants to ensure the project can be financed without borrowing funds. Barnes said the agreement will be effective upon execution and construction could begin within thirty days of execution. He would like to see the funds earmarked on the financial statement regardless of when construction begins. Magee indicated the agreement is being reviewed by the appropriate parties. Lee Radford believes it is important to include the Memorial Drive concept as an exhibit to indicate a definite plan is in place that has been approved by both the City and the Agency.

Legislative update: Armbruster indicated changes are constantly taking place at this point in the legislative process. The Idaho Urban Reinvestment Act, or modernization bill, drafted by Elam & Burke is being heralded by Rep. Dennis Lake, Chairman of the House Revenue and Taxation Committee. Some changes have been made by Representative Lake in what is now known as HB567. The changes further reduce the revenue allocation area term from 24 years to 20 years for a blighted, deteriorated project. The term for revenue allocation for an economic development project is reduced from 20

years to 12 years. There has always been a geographic limitation on the percentage of a City in project areas. The current bill states 15 percent, but different percentages are being discussed. The collective project areas for Idaho Falls are approximately 5 percent.

Armbruster stated the Nampa case has been dismissed. Despite the court cases, the urban renewal issue is not going away. Armbruster believes the modernization bill responds to many issues being raised and provides a better foundation for future projects, but six other bills have been introduced in the House. HB568 requires revenue allocation funds not needed to pay off bonds be returned to the other taxing entities. Many agencies do not necessarily borrow funds and Armbruster believes this mandate will leave no funds available to complete projects. Lee Radford added the bill appears to incentivize agencies to borrow funds. HB569 requires additional time for public comment and increases the challenge period. Many of these provisions are included or can be added to the modernization bill. HB570 requires an election of resident voters in the proposed urban renewal area prior to establishing an urban renewal area. Armbruster stated numerous project areas have a limited number of residents and may exclude people who own property but do not live in the area. HB571 requires any new revenue allocation plan be approved by resolution of the majority of the other taxing districts whose geographical boundaries overlap the revenue allocation area. Armbruster stated this bill appears to negate the opportunity to move forward with economic development. The modernization bill addresses the “but for” analysis. If that analysis can be met there should be not be a reason for the surrounding taxing entities to have the veto power provided in the bill. HB572 requires a method for county-wide election of board members. HB571 allows a provision for a taxing district to opt-out prior to a plan being adopted. Armbruster believes the modernization bill responds to some of the concerns addressed in other bills by requiring more public input as well as a process for communicating better with other taxing districts.

Armbruster noted a subcommittee of Revenue and Taxation was appointed two days ago and has set some ground rules about conducting upcoming meetings. The subcommittee does not appear to be interested in hearing more testimony about the issues or merits of urban renewal. They want specific testimony about the proposed bills. Armbruster will be coordinating with other urban renewal agencies to determine the next steps. The subcommittee appears to be charged with devising a consensus bill to be presented to the Revenue and Taxation committee within the next few weeks.

Dave Radford inquired about the role of the State Tax Commission. Armbruster replied, when an urban renewal plan is proposed, the modernization bill will require the State Tax Commission to certify the revenue allocation area does not collectively exceed more than 10 percent of the value of the city. If the geographical limitation remains in the bill, the State Tax Commission will be charged with providing a similar certificate verifying the geographic limit does not exceed the applicable percentage. The urban renewal agency will be required to file an annual report with the State Tax Commission including Board and contact information.

Referring to the term length for revenue allocation districts, Barnes noted River Commons is a great project but had terrible timing. If the developer had not had financing capacity, a bond would have been necessary. The project has not been built out and occupied as originally planned. If a bond had passed, the revenue to service the debt would not have been available. Barnes appreciates the flexibility of a longer term in a revenue allocation district. Hally added there is more risk with a shorter bond and it becomes more costly.

Armbruster said he will keep the Board advised. He understands the sentiment of the Board on some changes and can express concern to the subcommittee members over some of the provisions. Martin is interested in being informed and believes shortening the term makes it more difficult for a developer to assume risk. Dave Radford understands he is in the minority but supports shortening terms in order to get properties back on the tax rolls. He believes a shorter project is workable for a developer who understands the rules. Barnes indicated the Pantheri-Yellowstone revenue allocation plan is an example of a project that was successful with a shorter life. He noted the Agency had flexibility to go with a longer life if necessary. Martin agreed overall improvement and diversification is more difficult to achieve with more restrictions.

Update on downtown parking: Barnes stated negotiations are ongoing regarding potential Agency participation with Melaleuca to complete a parking structure downtown. Another option was recently discussed by the owner of the Wackerli apartments. He proposed basement level parking east of the apartments totaling approximately 235 spaces. The developer is familiar with public parking structures and believes he could build for approximately \$12,800 per space, a figure considerably less than discussed before. The developer plans to occupy 20 to 30 spaces and is willing to enter into a lease with the owner of the parking structure. Maintenance costs have been estimated at approximately \$1,000 per space annually, but this developer estimated \$600 per space annually. The developer proposed electronic readers for occupants of the spaces. Based upon past experience, the developer believes City and County cooperation on excavation and side work may save approximately \$8 to \$10 per square foot on the project. The County has set aside approximately \$300,000 for parking. Barnes mentioned the possibility of negotiations leading to those funds being used for this parking lot. The Melaleuca option still has great appeal due to its location near shopping and entertainment options. Greg Crockett stated he has not had a recent conversation with the Mayor but understands the Mayor is pursuing discussions with Melaleuca.

Dave Radford noted the County Commissioners met with the owner of the Wackerli apartments and discussed the possibility of utilizing the \$300,000 in County funds to secure parking. Barnes said the parking near Wackerli apartments includes Legion Drive as well as some property owned by the County south of Legion Drive. The expansion may add more than 235 parking spaces. Four elevators are planned at a cost of \$40,000 per lift, a figure less than previously provided.

Miscellaneous: Greg Crockett introduced Julie Ulrich, communications director for the IFDDC. Dave Radford met the new IFDDC director and, despite Shirley Chastain having tough shoes to fill, Radford expects John Hart to do an excellent job.

The meeting adjourned at 4:25 p.m.

Donna Carlson, Recording Secretary